THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.14701 OF 2007

DATED 18th JULY, 2007

BETWEEN:

Smt K.Vani Kumari

… Petitioner

AND

The District Collector, Krishna District at Machilipatnam, and another.

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.14701 OF 2007

ORDER:

The petitioner allegedly purchased the land admeasuring Acs.2.50 in survey No.233/2, situated at Polasanipalli Village, Nuzvid Mandal of Krishna Districy. The petitioner alleges that when enquiries were made, the land was found to be not an assigned land. The petitioner also approached for pattadar pass book, which was prepared and signed by Mandal Revenue Officer. In the meanwhile, second respondent initiated action under Section 4 of A.P.Assigned Lands (Prohibition of Transfers) Act, 1977 (the Act, for brevity). A notice in Form II under Rule 3 of A.P.Assigned Lands (Prohibition of Transfers) Rules, 2007 (the Rules, for brevity), was prepared. According to the petitioner, on 03.07.2007, when the revenue officials came to dispossess the petitioner, enquiries were made and petitioner's representative Sri P.Ravindranadh came to know that notice in Form II is issued. Therefore, he went to the office of Mandal Revenue Officer and obtained a copy of the same. As per the said notice, the petitioner is required to submit explanation within fifteen days from the date of receipt of notice. However, on 07.07.2007, revenue officials again came to the land and tried to take possession of the property. The petitioner resisted and filed the instant writ petition challenging Form II notice.

At the stage of Admission itself, learned Assistant Government Pleader for Revenue (General-A) has produced original record and made submissions.

Learned counsel for petitioner submits that notice, dated 25.05.2007 was not served on the petitioner or on his representative. It was served on the representative only on 03.07.2007 and therefore, petitioner has time till 18.07.2007 to submit explanation. Even before the time is expired, an order is allegedly passed on 07.07.2007 under Section 4 of the Act, which is unsustainable for want of proper and adequate opportunity. **Opposing** the writ petition, learned Assistant Government Pleader submits that notice, dated 25.05.2007 was served by substituted service by fixing the same to a pole near the land, and thereafter, order has been passed on 07.07.2007.

If Mandal Revenue Officer was satisfied that there is a valid service of notice by way of substituted service by fixing the notice to a pole near the land, there is no necessity to serve a copy of the notice, dated 25.05.2007 on the representative of the petitioner. If serving the notice on 03.07.2007 is correct, the order passed on 07.07.2007 for

resumption of assigned land is wholly unsustainable because admittedly the petitioner has fifteen days time from 03.07.2007 to submit explanation. On this limited ground, any order passed by Tahsildar, Nuzvid, is unsustainable, as the same is in violation of Rule 3 of the Rules. Therefore, Mandal Revenue Officer should consider the matter afresh before passing any orders and take possession of the land.

In the result, writ petition is disposed of in the following manner. The petitioner is given one week time from the date of receipt of copy of this order to submit detailed explanation to the show cause notice in Form II, dated 25.05.2007. After receiving explanation to the show cause notice, the Tahsildar may conduct proper enquiry after giving opportunity to petitioner and pass appropriate orders under Section 4 of the Act. Till such orders are passed, no coercive steps shall be taken against the petitioner.

The writ petition is accordingly disposed of. No costs.

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(V.V.S.RAO,J)

18.07.2007.
pln